

(2013) 09 P&H CK 0173
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 14856 of 2013

Satbir Singh

APPELLANT

Vs

District and Sessions Judge and Another

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Citation : (2014) 173 PLR 528

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Judgement

Tejinder Singh Dhindsa, J.—The present writ petition has been filed impugning the order dated 12.02.2003 at Annexure P-1 passed by the District & Sessions Judge, Sonapat, whereby the petitioner who was working on the post of Ahlmad cum Summary Clerk was imposed the extreme penalty of dismissal. Further challenge is to the order dated 30.05.2013 (Annexure P-4), whereby the representation filed by the petitioner to be reinstated as Ahlmad has been rejected. Brief facts that would require notice are that FIR No. 140 dated 19.09.2001 was registered against the petitioner at Police Station City Gohana under Sections 7 & 13(1)(d) of the Prevention of Corruption Act, 1988. Upon registration of the FIR, the petitioner was placed under suspension w.e.f. 19.02.2001 and a fact finding preliminary inquiry was conducted against the petitioner and on receipt of such preliminary inquiry report, regular departmental proceedings were initiated by issuance of a formal charge sheet raising a precise article of charge that the petitioner had demanded illegal gratification of Rs. 4500/- from one Sanjay for disposal of challan pertaining to jeep bearing registration No. HR-46A-7142 and was caught red handed by a raiding party headed by the then Deputy Superintendent of Police, Gohana. The then Additional & Sessions Judge, Sonapat was appointed as a regular Inquiry Officer and findings were returned holding the petitioner to be guilty of the charges. The Disciplinary Authority having agreed with the findings of the Inquiry Officer served a show cause notice upon the petitioner, wherein the major penalty of dismissal was contemplated. A copy of the inquiry report was also supplied to the

petitioner. The petitioner furnished his reply to the show cause notice and after having afforded an opportunity of personal hearing, the Disciplinary/Punishing Authority i.e. the District & Sessions Judge, Sonapat took a view that the conduct of the petitioner was unbecoming of a government servant and vide impugned order dated 12.02.2003 dismissed the petitioner from service.

2. It so transpires that in pursuance to the criminal proceedings initiated against the petitioner after the registration of the FIR, the petitioner was convicted vide judgment dated 08/10-02.2003. Against the order of conviction, the petitioner preferred CRA No. 438-SB of 2003 which has been allowed by this Court on 20.03.2013 and the petitioner has been acquitted of the charges framed against him by giving him benefit of doubt. Apparently, the petitioner relying upon the judgment of acquittal submitted a representation seeking reinstatement on the post of Ahlmad which stands rejected in the light of order dated 30.05.2013 at Annexure P-4. It is against such brief factual backdrop that the instant writ petition has been filed.

3. Counsel for the petitioner has strenuously argued that the petitioner having been acquitted of the charges under the provisions of the Prevention of Corruption Act, 1988, the very basis of passing of the dismissal order would become non-existent. It has farther been argued that since in the year 2003, the petitioner had stood convicted, as such, there was no occasion for the petitioner to have raised a challenge to the order of dismissal dated 12.02.2003 at Annexure P-1 and it is only upon having earned acquittal from this Court that the matter could possibly has been agitated. Yet another submission raised by the learned counsel is that in the impugned order dated 30.05.2013 (Annexure P-4) while rejecting the representation of the petitioner to be reinstated on the post of Ahlmad, the District & Sessions Judge, Sonapat has wrongly placed reliance upon the judgment of the Hon"ble Supreme Court in Deputy Inspector General of Police & another v. S. Samuthiram.

4. Having heard counsel for the petitioner at length, I am of the considered view that the present writ petition deserves dismissal.

5. The extreme penalty of dismissal was imposed upon the petitioner vide order dated 12.02.2003. (Annexure P-1) upon culmination of a regular departmental proceedings having been initiated against the petitioner. A thorough perusal of such order of dismissal would make it clear that the dismissal is not at all based upon the order of conviction. Still further, it becomes apparent that complete procedure of issuance of charge sheet, Inquiry Officer having been appointed and regular inquiry having been conducted, findings having been furnished, show cause notice contemplating the imposition of major penalty having been served, copy of the inquiry report having been supplied, reply to the show cause notice having been considered and thereafter, personal hearing having been granted, that the order of dismissal was passed. Even if the petitioner had any grievance as regards any illegality/irregularity that may have been committed during the process of inquiry proceedings, it was open for the petitioner to have agitated

such issue in the year 2003 itself. The contention raised by the learned counsel- that since the petitioner stood convicted in the year 2003 by the Competent Court and his appeal against the same still pending in the High Court and as such he could not have agitated the matter against the order of dismissal is totally without merit. As already noticed, since the order of dismissal was not at all based upon conviction and rather in pursuance to regular departmental proceedings having been conducted, it was always open for the petitioner to have impugned the order of dismissal passed on 12.02.2003 immediately thereafter. Challenge to the same in the year 2013 would not be permissible. For the reasons recorded above, I do not find any infirmity in the view taken in the communication dated 30.05.2013 at Annexure P-4 in rejecting the representation of the petitioner for being reinstated on the post of Ahlmad consequent to the acquittal of the petitioner in the criminal proceedings. Still further, I find that the reference made to the judgment of the Hon"ble Supreme Court in the case of S. Samuthiram (supra) would be of no consequence at all. The civil writ petition is devoid of merit and is accordingly dismissed.